

8/31/2016 11:50 am

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LARISA KONASHENKO,

Plaintiff,

-against-

ORDER
15-CV-2354 (SJF)(SIL)

ARNE DUNCAN, Secretary, U.S. Department of
Education, and AES/PHEAA, PENNSYLVANIA
HIGHER EDUCATION ASSISTANCE
AGENCY,

Defendants.

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FEUERSTEIN, District Judge:

Before the Court is Magistrate Judge Steven I. Locke's July 20, 2016 Report and Recommendation (Dkt. 26) ("Report") recommending that defendant Pennsylvania Higher Education Assistance Agency d/b/a American Education Services' ("PHEAA") motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6) (Dkt. 18) be granted in its entirety. No objections to the Report have been filed and the deadline for filing objections has passed.

Any portion of a report and recommendation on a dispositive matter to which a timely objection has been made is reviewed by the district court *de novo*. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Where no proper objections are interposed, however, a district court is not required to review the factual findings or legal conclusions of the magistrate judge *de novo*. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). To accept the report and recommendation of a magistrate judge on a dispositive matter to which no timely objection has been made, the district court need only be satisfied that there is no clear error on the face of the record. *See Fed.*

R. Civ. P. 72(b); *Johnson v. Goord*, 487 F. Supp. 2d 377, 379 (S.D.N.Y. 2007), *aff'd*, 305 Fed. Appx. 815 (2d Cir. 2009); *Baptichon v. Nev. State Bank*, 304 F. Supp. 2d 451, 453 (E.D.N.Y. 2004), *aff'd*, 125 Fed. Appx. 374 (2d Cir. 2005). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Upon review, this Court adopts Magistrate Judge Locke's Report in its entirety. Accordingly, defendant PHEAA's motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6) (Dkt. 18) is GRANTED. A liberal reading of plaintiff's complaint does not give any indication that a valid claim might be stated against defendant PHEAA, thus amendment would be futile. Accordingly, plaintiff's complaint is dismissed with prejudice as to defendant PHEAA. *See, e.g., Ruotolo v. City of New York*, 514 F.3d 184, 191 (2d Cir. 2008). The Clerk of the Court is directed to serve notice of entry of this Order upon plaintiff.

SO ORDERED.

s/ Sandra J. Feuerstein
Sandra J. Feuerstein
United States District Judge

Dated: August 31, 2016
Central Islip, New York